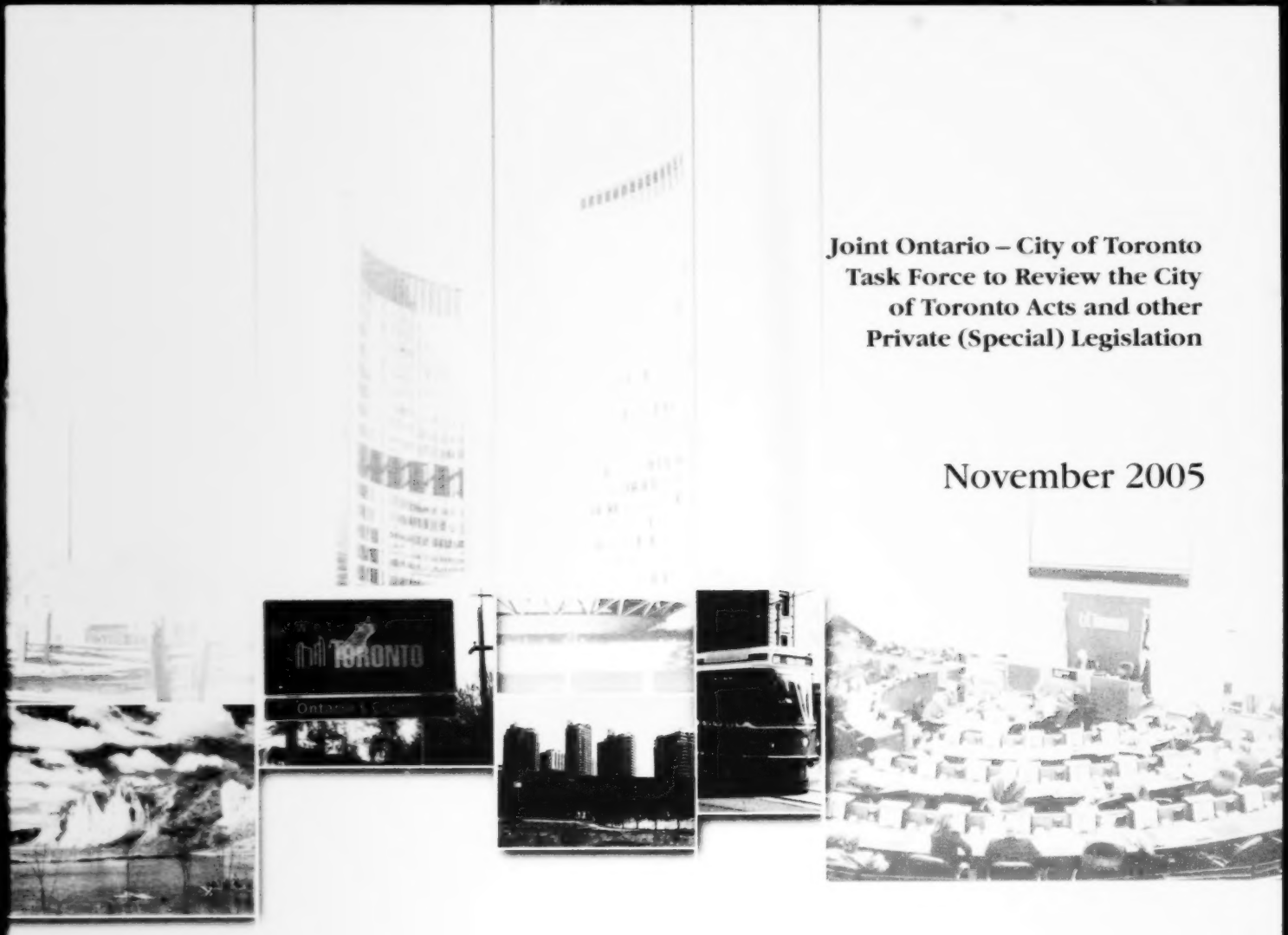


**Joint Ontario – City of Toronto Task Force to Review the City of Toronto Acts and other Private (Special) Legislation**

November 2005

*Final Staff Report*

# BUILDING A 21st CENTURY CITY

Ontario

TORONTO

*Building a 21st Century City*

# Message of Transmittal

Dear Minister Gerretsen and Mayor Miller,

We are pleased to present you with the Final Staff Report of the Joint Ontario-Toronto Task Force to Review the City of Toronto Acts and other legislation.

The mandate of the Joint Task Force was to review the legislative framework that governs the City of Toronto currently, including, the City of Toronto Acts, the Municipal Act, 2001 and more than 350 private bills. The Task Force was tasked with exploring how to make Toronto more fiscally sustainable, autonomous and accountable and how to provide it with the tools it needs to thrive in the global economy.

Animated by a shared vision of a culturally vibrant, economically strong, and environmentally sustainable Toronto, our Task Force reached consensus on a wide range of issues with respect to the city's powers, accountability and governance, and potential new sources of revenue. We are recommending a dramatic departure from the status quo. We are recommending ground-breaking change. We are recommending that an altogether new approach be used to assign authority to Canada's largest city.

In any undertaking of this scope, it is inevitable that ongoing discussion and work will be required in some areas. So, while the submission of this report marks the completion of the work of the Joint Task Force, we are confident that dialogue between our respective governments will continue in the weeks and months ahead, whether through the City of Toronto Act initiative itself or other legislative reform undertakings.

We hope our report will assist the Governments of Ontario and Toronto in making changes that will benefit Toronto residents and all Ontarians for many years to come.

Sincerely,

John Burke
Deputy Minister of Municipal Affairs
and Housing

Shirley Hoy
City Manager

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# 1. Context

Toronto is a leading regional, economic and social centre within the North American and global context. Toronto is an economic powerhouse; a hub of international commerce, media and the arts; known for excellence in science and medical research; and one of the most diverse, dynamic and welcoming cities in the world.

Toronto's contribution to Ontario's prosperity cannot be overstated. The city draws tourists, foreign investment, students, and immigrants to the Province. Economic activity generated by Toronto residents and businesses accounts for 25% of Ontario's GDP. For Ontario to succeed, Toronto must thrive.

The reverse is equally true. The prosperity and well-being of the city depend substantially on the investments that all citizens of Ontario – and Canada – make in Toronto. All citizens of Ontario contribute to Toronto's arts and cultural scene, its hospitals, its health care, its schools, colleges and universities, its research and innovation sectors – all of which, in turn, attract money and investment to Toronto. For example, investments in Toronto's hospitals topped $3.6 billion in fiscal year 04/05. In 2004-05, the Government of Ontario invested $939.9 million in operating and capital support for the University of Toronto, York University, Ryerson University and the Ontario College of Art & Design and $261.6 million in operating support and capital support for George Brown, Centennial, Seneca and Humber Colleges – well over a billion dollars. And senior government annual base funding of Toronto's transit system reached historically high levels in 2005. Toronto not only contributes to, but benefits from, the province's firm economic foundations and positive outlook.

Yet it has become increasingly evident that Toronto's legislative framework – the set of tools and legal instruments it can use to govern itself – no longer meets the City's needs.

Toronto's current planning, revenue generation and economic development tools do not adequately accommodate the City's realities. Toronto needs better tools to facilitate intensification and direct growth along transit corridors.

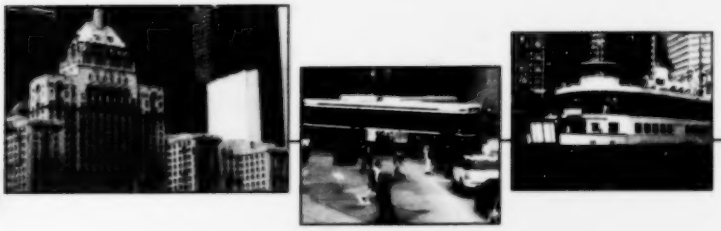
Clearly, it's time for a new approach.

This report builds on the initial findings outlined in our May 2005 Staff Progress Report. Since then, the province and the city have consulted with the people of Toronto, received and considered a wide range of perspectives offered by community organisations, business groups and academics, and tapped the professional expertise of hundreds of municipal and Provincial officials.

Time and again, in one form or another, our Task Force heard about the need to effectively balance and give expression to three elements of good governance in our recommendations for a modernized City of Toronto Act, namely:

1. Powers – legislative and financial
2. Accountability and governance
3. Partnership

We heard that the City's authority should not be limited to narrow bands of activity and that it should include the powers of a mature, responsible government.





And we heard that providing new law-making powers without the corresponding ability to raise revenue to pay for local services in a fair and balanced way would further undermine the City's fiscal position and competitiveness.

We heard that the existing approach doesn't work because it prevents local residents from holding local officials to account, since the City too often doesn't have the "final say" about what happens, or because it doesn't have the resources to implement its policies, or because it's too easy for Councillors and the Mayor to point the finger at each other or the Province when things go awry.

We were told to get on with the job of working together to build a better City and Province. We were urged to coordinate planning policies and financial incentives to promote intensification, reduce traffic congestion and smog, and create conditions which allow businesses and neighbourhoods to flourish. We were also told to strengthen Toronto's ability to enter into agreements with the Government of Canada in order to improve public transit, affordable housing, child care, economic development and settlement services for immigrants. And finally, we were reminded that it's time for Toronto to have a seat at the table when Canada and Ontario meet to develop policies, programs and budgets that significantly impact the City.

We heard, in sum, that we should recommend changes for a modernized City of Toronto Act that would give the City the tools and resources it requires to address local priorities in a timely, innovative and effective manner, while clarifying accountability, and putting mechanisms in place that will position Ontario and Toronto to move forward as partners in addressing the challenges that threaten Toronto's prosperity and quality of life

Our Task Force's recommendations for a modernized City of Toronto Act aim to reflect these priorities. If adopted, we are confident that our recommendations will:

- enable the people of Toronto to collectively govern themselves with the powers of a mature government
- position the City to compete more effectively against major global urban centres
- establish a healthy balance between Toronto's need for greater autonomy and the responsibility of the Province to protect provincial interests
- make Toronto City Council and City officials more accountable to the people of Toronto, and
- serve as the foundation of an enduring, respectful and productive partnership between Ontario and its capital city.

# 2. Powers – Legislative and Financial

## A: Broad Permissive Powers

Local residents and businesses turn to City Hall for answers and assistance in addressing a wide array of problems. Their expectations are high, and rightfully so. As one of Canada's largest governments, the City of Toronto employs over 47,000 people and manages an $8 billion enterprise. Yet all too often, the City is unable to address local priorities in a timely, effective or innovative manner because it lacks the power to take action, or at least the power to take the most cost-effective or appropriate kind of action.

In our Staff Progress Report in May 2005, our Task Force suggested that a modernized City of Toronto Act should fundamentally alter the way Ontario empowers Toronto. We have scrutinized the results of public consultations. We stand by our initial conclusion: the Act should start from the premise that Toronto can exercise broad permissive governmental powers within its jurisdiction, subject only to exceptions in the provincial interest.

In specific terms, we recommend that the City have the ability to pass by-laws with respect to:

- Services and things provided by the city
- Public assets of the city
- Economic, social and environmental well-being of the city
- Safety and well-being of persons
- Protection of persons and property, including consumer protection
- Governance structure of the city and its local boards
- Accountability and transparency of the city and its operations
- Financial management.

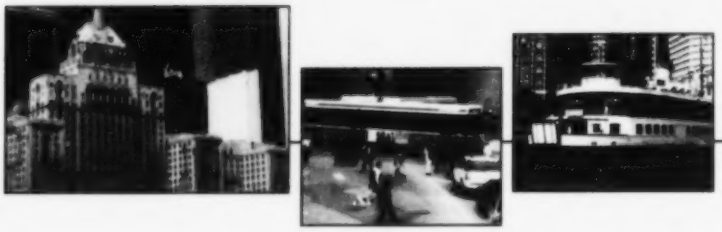
The City's broad governmental powers should include the authority to regulate and prohibit, including:

- Requiring persons to adhere to certain requirements concerning various matters
- Providing for a system of licences, permits, approvals or registrations respecting various matters
- Imposing conditions as a requirement of obtaining, continuing to hold or renewing a licence, permit, approval or registration.

If accepted, these recommendations will provide Toronto with a level of autonomy rivalling – if not exceeding – that of any other city in Canada. Empowering its capital city will in turn position Ontario to successfully compete in a globalized economy and provide a quality of life for its residents that is second to none.

Our Task Force also recognizes that the Government of Ontario has an interest in ensuring that provincial interests are protected and that residents of Toronto and other municipalities are treated equitably. To this end, we recommend that:

- All Provincial acts that impact municipalities with the exception of the *Municipal Act, 2001* continue to apply to the City.





- In the event that a city by-law were to run counter to provincial interests, the province should have the ability to temporarily suspend it pending a legislative review.

In our view, mechanisms of this kind fairly balance the City's need for more autonomy with the Province's responsibility to protect the provincial interest.

Even with broad and permissive governmental powers, Toronto may require specific enhancements to its general authority. Examples of such powers recommended by our Task Force for a new Act (and, where necessary, amendments to other legislation) include:

- Authority to prohibit corporation and trade union contributions to candidates running for council
- Authority to establish standards for new developments to include green roofs
- Power to control the demolition and conversion of rental housing (to condominiums) in order to better protect Toronto's rental housing stock
- A general power to determine how and under what circumstances notice is to be given
- Authority to establish minimum densities
- Authority to set architectural and urban design standards
- The ability to establish a design review panel similar to those found in two of the best-looking cities in North America, New York and Vancouver
- Authority to establish business corporations, wholly or partially owned, except where there is an over-riding provincial interest (e.g. social services, health). If the city establishes a business corporation that would compete with the private sector, the city should be required to articulate the public good that would be achieved through the creation of the corporation.
- Broad authority to license and regulate businesses subject to certain limits
- A general administrative power of entry to determine by-law compliance would strengthen the City's ability to enforce its by-laws and ensure a level playing field for businesses
- Power to regulate store openings on holidays in order to create a level playing field for all shopping districts and better reflect the preferences of a diverse, multicultural city
- Authority to establish an administrative adjudication process for parking by-law infractions

## B. Economic Development

Toronto's and Ontario's future prosperity are inextricably linked. Ontario has made it a priority to get the fundamentals right – through strategic investments in health care, hospitals, transit, research and innovation, the arts and culture sector, for example. These investments are essential to an economically healthy future for Toronto – and are a critical adjunct to our joint work to give Toronto the tools it needs to thrive in the 21st century and to compete on the North American and global stage. And enhancing Toronto's competitiveness helps put Ontario on the leading edge to take on the world.

To maintain its competitive edge, Toronto needs to be able to respond quickly to economic development opportunities. We therefore recommend that the Act

permit the city, without seeking provincial approval, to promote economic development by bonusing private businesses not only as currently permitted in the Municipal Act, 2001, but also within the context of a community improvement plan (CIP) under the Planning Act and within the context of a small business incubator program.

### *Incorporation of Provisions from the Municipal Act, 2001*

Our Task Force affirms the conclusion articulated in the Staff Progress Report that the new City of Toronto Act should effectively function as the City's "charter" by replacing the Municipal Act, 2001, the City of Toronto Act, 1997 (No. 1 & No. 2) and most if not all of the 350+ private acts that currently apply to the city. This approach is the best way to provide Toronto with an enabling legislative framework commensurate with its size, capacity and significance to Ontario.

We specifically recommend that the Municipal Act, 2001 no longer apply to Toronto. However, certain "nuts and bolts" provisions from the Municipal Act, 2001 should be carried forwarded in a new City of Toronto Act. These provisions are outlined in Appendix C.

### *Private Acts*

Many of the 350+ private acts that currently apply to the City of Toronto are no longer relevant. Some date from as far back as 1834 and concern matters that aren't exactly top-of-mind in a 21st century global city. One, for example, allows the city to sell hay and fodder at any cattle market.

We recommend that the outdated private acts be repealed as requested by the city, with the exception of those acts which grant property tax exemptions or other tax relief. Where appropriate and necessary, powers flowing from these acts which only apply to a part of the city (i.e. the geographic area of one the pre-amalgamation municipalities) should be applicable to the entire city.

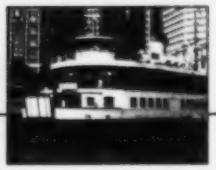
### *Planning and Environmental Assessment*

Our Task Force carefully considered the merits of broadening Toronto's authority with respect to planning matters and the environmental assessment process. We reached consensus on some matters, and agreed to disagree on others. We've conveyed this to the officials who are responsible for the concurrent reviews of the Planning Act and Environmental Assessment Act, since it may be more appropriate to enact these reforms through legislation of general application to all municipalities in Ontario.

## C. Financial Management and Revenue Tools

It has long been argued that Toronto requires a wider mix of revenue sources to better meet its financial requirements and more effectively achieve public policy objectives.

Just as Toronto requires broader scope to make laws, so too does it require new tools for raising revenue and managing its financial and physical assets. Without these new tools, Toronto's ability to shape development patterns, accommodate population growth, and maintain necessary social and physical infrastructure will be compromised. Conversely, providing Toronto with expanded financial management and revenue tools will make the City more fiscally sustainable, autonomous and accountable.





### *i. Budgeting*

Many of the budgeting systems and requirements now followed by the City should remain in effect, such as requiring the city to plan for a balanced operating budget. In addition, we recommend that the Act allow the City to approve budgets on a single-year or multi-year basis.

### *ii. Debt and Investment*

We recommend providing Toronto with new debt, investment and cash management instruments, including revenue bonds, interest rate hedging, and investing in short-term Canadian bonds and debentures rated "A-" or better. To guide the use of these tools and guard against their misuse, the Act should require the City to adopt, by by-law, an investment policy and a capital financing policy that includes limits on annual debt servicing.

### *iii. Taxation*

Our Task Force agrees that that the new Act should provide Toronto with broad and permissive powers of taxation to allow it enhanced sources of revenue. This approach will give Toronto access to revenue tools now enjoyed by many of the major international cities with which it competes.

Specifically, we recommend that the Act provide Toronto with general authority to levy taxes that include limitations, such as: no tax on personal or corporate income; no tax on payroll; no tax on gas; and no sales tax, except for a tax on sale of entertainment, alcohol or tobacco.

Further, we recommend that for any new tax, the City be allowed to determine the tax base, rate of taxation, method of administration, and enforcement and collection requirements. We recommend the City work with the Canada Revenue Agency on potential tax collection.

The province has a strong interest in maintaining a consistent province-wide approach to property taxation. The city seeks reconsideration of some elements of the current property tax framework, particularly in the context of the recent council decisions with respect to a new policy framework for property taxes. The Joint Task Force was not able to reach consensus on extending permissive powers to the area of property taxation.

The Act should allow Toronto to collect revenue through an area rate levy for any special service (e.g. extra snow removal, traffic calming enhancements, etc.) provided only to that area, except where prohibited through regulation.

The Task Force also agrees that the new Act should allow Toronto to undertake tax increment financing with respect to its own property tax in order to attract investment and development to specific areas of the city.

### *iv. Fees and Charges*

The Task Force recommends that existing prohibitions on fees and charges be lifted, with due regard for the potential financial impact this may have on the Province. Toronto should also be allowed to fund any type of capital work through the use of local improvement charges.

# 3. Accountability

A modernized City of Toronto Act requires new – or strengthened – measures to promote transparency and accountability. To take full advantage of an improved legislative framework and its broader range of permissive powers, the City would also require greater flexibility to put in place effective governance structures

## A. Oversight Functions

To ensure high standards of professionalism and ethics, Toronto requires strong oversight functions.

The Task Force therefore recommends that the new Act require (not simply allow) the City to have an empowered and independent integrity commissioner, ombudsman and auditor general, and a lobbyist registry. We also recommend that the following powers be made available to the appropriate oversight officials: ability to protect confidential information despite the Municipal Freedom of Information and Protection of Privacy Act; the power to require persons to give evidence under oath; and the powers of a commissioner under Part II of the Public Inquiries Act.

## B. Governance

Our Task Force spent a significant amount of time on governance questions. We recognized that with the broad, permissive powers we are recommending for the city would come a significant increase in responsibility. We discussed in detail the model of governance that would best enable the city to manage the new range of responsibilities implied by these powers.

Ontario municipalities are given the right to determine the electoral structure of their local government, provided, in part, that the municipality's mayor is elected by a general vote and that local council continues to be the primary decision-making and legislative body. So should Toronto. Toronto should have the authority, currently enjoyed by every other Ontario municipality, to set its own council composition and ward boundaries.

We also recommend that a modernized Act provide Toronto with greater flexibility to adopt different governance models. This means the City should have broad powers of delegation, including the ability for committees and boards to make final decisions on some matters. However, there should be limits on Council's authority to delegate final decision-making on matters of overarching city-wide significance to committees, such as:

- the official plan
- the budget and taxation
- hiring and dismissal of statutory officers

The Government of Ontario has listened attentively to the many comments that have been made on the question of governance. The Premier has stated that his government would like to see a more effective governance model in place for the city. The government wants a new governance model with characteristics of a mature, responsible government, in which the public interest is paramount. The Government of Ontario favours a model that includes an executive committee chaired by the mayor with specific and defined authority, having the mayor responsible for a long-term strategic plan and budget and recommending to council the hiring of the city manager.

The City has taken the initiative to establish a three-member external panel with a mandate to broadly consult with the community and civic leaders and develop recommendations concerning Toronto's governance framework. More information about the panel and other governance-related reports issued by various organizations can be viewed at: http://www.toronto.ca/governingtoronto/views.htm

# 4. Partnership

## A. Intergovernmental Relations

A new Act provides an opportunity for Toronto and Ontario to model a fresh way for different orders of government to work together in the interests of citizens and taxpayers, and to honour the principle of local democracy.

We believe that the relationship between the Province and the City should be supported through ongoing, reciprocal consultation between the two jurisdictions when dealing with areas of common interest and on matters that would impact upon each other. To ensure this happens, agreements should be developed between the two governments which would govern this process. Ontario has been a leader in Canada in fostering a strong consultative relationship with its municipal sector, and a new relationship between the City and the Province provides an opportunity to build on this tradition and foster a dynamic partnership and ongoing dialogue.

To formally recognize Toronto's importance to Ontario and Canada, our Task Force recommends that the Act expressly acknowledge Toronto's ability, as a mature government, to enter into agreements with other governments, including the Government of Canada.

## B. Keeping the Act Current

We live in a dynamic world. To remain relevant and effective, the new City of Toronto Act will need to evolve over time as the priorities and circumstances faced by Ontario and Toronto change.

We therefore recommend that the Act be reviewed within two years of coming into effect and on a regular basis thereafter.

## Contact Information

You can find out more about the joint Government of Ontario and City of Toronto review at:

www.toronto.ontario.ca

or

www.mah.gov.on.ca

or

www.toronto.ca

# 5. Appendices

## Appendix A. Process

On September 17, 2004 Premier Dalton McGuinty and Mayor David Miller officially launched a joint Toronto-Ontario review of the City of Toronto Acts and other legislation. The Premier committed to provincial participation in a joint review in a letter to the city dated May 5, 2004. The review was intended to lead to a modernized City of Toronto Act being introduced in the Legislature by the end of 2005.

To facilitate the review a joint Ontario-City of Toronto Task Force was established, co-chaired by the Deputy Minister of the Ministry of Municipal Affairs and Housing and the City Manager of the City of Toronto. The co-chairs were supported by a staff working group from both the Government of Ontario and the City of Toronto.

The purpose of this review was to develop a framework for a modernized act that could provide Ontario's capital city with enabling legislation commensurate with its responsibilities, size and significance to the province.

Related objectives of the review were to:

- Make the City of Toronto more fiscally sustainable, autonomous and accountable
- Provide it with the tools it needs to thrive in the global economy
- Reshape the relationship between Ontario and its capital city.

As a government, as an employer and as buyer and seller of goods, the City of Toronto is regulated by hundreds of pieces of legislation, both private and public. Through the first part of the review, the Joint Task Force engaged in extensive discussion and analysis of many of these pieces of legislation.

Staff work included:

- A systematic review of all special (private) legislation (more than 350 acts) relevant to the City of Toronto and the former pre-amalgamation municipalities
- Analysis of the advantages, disadvantages and limitations of the existing legislation, e.g. the City of Toronto Acts, *Municipal Act, 2001*, etc.
- Reviewing Toronto's legislative framework document, entitled 'Key elements of an improved Legislative Framework for Toronto', as adopted by Toronto City Council in May 2003 and implications of other municipal legislation and governance models
- Engaging provincial ministries in discussions relevant to the legislation as it applies to Toronto.

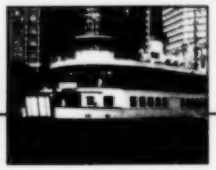
**JOINT TASK FORCE PROCESS**

Phase One: September, 2004
Establishment of Joint Task Force
Work begins

Phase Two: Winter, Spring 2005
Release of Staff Progress Report
Work continues

Phase Three: Summer 2005
Public Consultation
Work continues

Phase Four: Fall 2005
Release of Staff Final Report





The province and the city co-hosted simultaneous public consultations on June 22, 2005 at four sites across the city linked through video conferencing. More than 700 people took part in the evening's consultations at the St. Lawrence Market, Mid-Scarborough Community Centre, Etobicoke Collegiate and Mitchell Field Community Centre.

In small, round-table discussions, participants were asked to discuss and share their views on two questions:

1) How can the province and the city ensure a strong Toronto that is fiscally sustainable, autonomous, accountable and has the tools it needs to thrive?
2) What advice would you give to the city and the province to ensure the success of Toronto's new powers?

The same questions were posed during the online consultations that took place throughout June and July 2005 via a joint website, www.toronto.ontario.ca. The public input from the online consultations and the June consultation session have been gathered and published on the joint website.

In addition, constituent consultations were conducted by Toronto Members of Provincial Parliament and Toronto City Councillors.

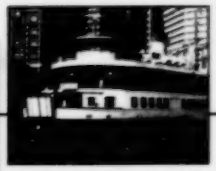
## Appendix B: Provincial and Municipal Goals

To create a framework of broad and enabling powers for the City of Toronto which:

- Gives the city broad permissive powers subject to provincial involvement in areas of significance to the province
- Recognizes that in order for the city to provide good government the city must be appropriately empowered
- Fosters a strong consultative relationship between the province and the city that respects and advances the interests of both governments.

### *Detailed Goals and Objectives*

- A city that works - with a livable downtown, great neighbourhoods, fabulous arts and culture, ample parks and recreation, quality public transit, affordable and decent housing, social diversity and civic tolerance, great public schools, colleges and universities, accessible health care and diverse economic opportunities.
- A Strong Toronto – an economically strong, socially and culturally vibrant, and environmentally sustainable city that plays a leading role as the heart of a vibrant region, serving as an economic engine for the province and the nation and attracting talent and investment from around the world.
- A city government that is responsible, responsive and self-reliant, supported by a framework that is fiscally sustainable, autonomous and accountable.
- A city government with decision-making that is open, transparent and participatory.
- A legislative framework for the City of Toronto that ensures clarity and certainty, while not inhibiting innovation and adaptability and that gives the city the tools it needs to thrive in the global economy.
- A mature new partnership between Ontario and its capital city based on recognition of, and respect for, municipal, provincial and federal areas of jurisdiction.
- The City of Toronto is provided with the requisite (legislative) authority and financial tools to fulfill its responsibilities and begin to address existing and future community needs, which include:
  - Safeguarding the health, protection and well-being of persons and property
  - Acting as a steward of the natural environment and the city's public assets
  - Fostering social cohesion among the city's diverse residents
  - Enhancing the economic vitality of the city
  - Providing good government.
- As Ontario and Canada's leading economic engine, the City of Toronto is equipped to compete successfully against other world-class cities for private capital, research and development, skilled workers, entrepreneurs, immigrants, tourists, and business.





## Appendix C: Recommendations for *Municipal Act, 2001* Provisions to be Included in New Act

The Municipal Act, 2001 would not apply to the City of Toronto. However, certain provisions could be incorporated into the new act (with modifications and additions) including:

- Natural person powers
- Open meetings, including new provisions related to participation in electronic meetings
- Council composition including ward boundaries
- Specific notice provisions necessary to protect areas
- Ability to adopt codes and standards
- Compliance and enforcement including:
  - i. Specific powers of entry and penalties
  - ii. Authority to regulate vendors on private property, including ability to seize equipment
- Record keeping
- Eligibility to hold municipal office
- Vacancies of elected representatives
- Protection from liability
- Joint agreements/inter-municipal agreements
- Appointment and duties of statutory officers
- Requirement to supply certain utilities
- Fortified properties
- Roles of council and head of council
- Power to request judicial investigation
- Quashing by-laws
- Restricted acts after nomination day
- Procedure by-laws
- Roads – minimum standards and boundary roads

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